

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RICHARD BILAUSKI,)
Petitioner,)
v.) Case No. 4:09 CV 1983 RWS
TROY STEELE, et al.,)
Respondents.)

MEMORANDUM AND ORDER

This matter is before me on Respondents' motion to stay my order granting Petitioner habeas relief pending appeal. For the following reasons, I will grant Respondents' motion to stay.

When deciding a motion to stay pending appellate review, courts consider four factors in determining whether a stay is warranted: "(1) the likelihood that a party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay." Iowa Utils. Bd. v. F.C.C., 109 F.3d 418, 423 (8th Cir. 1996). This court must "consider the relative strength of the four factors, balancing them all." Brady v. Nat'l Football League, 640 F.3d 785, 789 (8th Cir. 2011) (internal quotations marks and citation omitted).

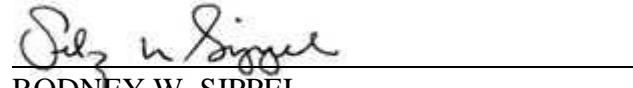
After examining the four factors, I conclude that a stay is appropriate. Respondents have demonstrated an adequate likelihood of success on the merits of the appeal. Additionally, Respondents may be irreparably harmed by the burden of having to simultaneously litigate this case in state court and on appeal to the Eighth Circuit, as well as the potential of inconsistent

outcomes if the state court rules on any motions while the federal appeal is pending. Petitioner is not likely to suffer irreparable harm due to the nature of the habeas relief I granted. I did not order Petitioner's release, rather I required the State to grant him a new direct appeal. Finally, the public interest favors granting a stay because it would avoid potentially duplicative litigation, thereby conserving judicial resources.

Accordingly,

IT IS HEREBY ORDERED that Respondents' motion to stay [#41] is **GRANTED**.

IT IS FURTHER ORDERED that the my order granting habeas relief to Petitioner is stayed pending final resolution of Respondents' appeal of this matter to the Eighth Circuit Court of Appeals.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 29th day of May, 2013.